

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HARRY J. WILLIBY,

Plaintiff,

No. CIV S-04-2560 DFL JFM P

vs.

JEANNE S. WOODFORD, et al.,

Defendants.

ORDER

On March 20, 2006, plaintiff filed objections to that portion of the magistrate judge's order filed March 10, 2006, which found that plaintiff had failed to state cognizable claims for relief based on alleged confiscation of legal material, denial of post-parole services, or harassment and retaliation. The court has reviewed plaintiff's first amended complaint and the magistrate judge's order in light of plaintiff's objections. Upon completion of this review, the court concurs in the magistrate judge's determination.


As a preliminary matter, the court will treat the magistrate judge's order as findings and recommendations to the extent that the order dismisses certain of the claims without leave to amend. Consistent with this characterization, plaintiff appropriately has filed objections. The order will be reviewed de novo.

Only one of plaintiff's argument in the objections merits comment. Plaintiff contends

1 that he has suffered actual injury as a result of the alleged confiscation of his legal material
2 because he was unable to name Doe defendants in a litigation in the Northern District of
3 California. Although he seems to assert that he could have named the Doe defendants in the
4 Northern District litigation if he had the documents, he presents no evidence of who those Does
5 might be, why the confiscated materials were essential to naming them, and why he did not bring
6 the problem to the presiding court's attention in the Northern District during what was apparently
7 a lengthy litigation.

8 Accordingly, good cause appearing, and upon de novo review, the court affirms the
9 magistrate judge's order of March 10, 2006, and denies plaintiff's objections. The matter will go
10 forward on the basis of the March 10, 2006 order.

11 DATED: 8/30/2006

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15 DAVID F. LEVI
United States District Judge

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